



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce  
Dallas, Texas 75242

Release Number: **201323027**

Release Date: 6/7/2013

ORG

Address

AUG 8 2007

UIL: 501.04-01

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

LEGEND: ORG = Name of ORG

This is a Final Adverse Determination as to your exempt status under section 501(c) (4) of the Internal Revenue Code.

Our adverse determination was made for the following reasons: Failure to provide records of the organization and failure to meet the reporting requirements under section 6001 and 6033 of the Internal Revenue Code.

Exemption from income tax is a matter of legislative grace and taxpayers have the burden of establishing their entitlement to exemptions. Section 6033 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

Despite numerous requests to you to provide information to conduct an examination of your Form 990 for the year ended 12/31/20xx and 12/31/20xx, no requested information has been provided to us.

ORG, fails to meet the requirement for exemption under IRC 501(c) (4) and 528. Section 1.501(c)(4)-1 of the Income Tax Regulations which states an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the community.

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c) (4) of the Internal Revenue Code effective January 1, 20xx.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning after December 31, 20xx.

You are required to file Form 1120, U.S. Corporation Income Tax Return. Form 1120 must be filed by the 15<sup>th</sup> day of the third month after the end of your annual accounting period. A penalty of \$20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

You have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by writing to:

Internal Revenue Service  
Local Taxpayer Advocate

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Marsha A. Ramirez  
Director, EO Examinations

Attached: copy of 886-A



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE

January 19, 2011

Taxpayer Identification number:

Legend: ORG= Name of ORG Address = Address of ORG

Form(s):

ORG

Tax Year(s) Ended:

Address

Person to Contact/ ID Number:

Contact Numbers:

Telephone:

Fax

**CERTIFIED MAIL -RETURN RECEIPT REQUESTED**

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha Ramirez  
Director, EO Examinations

Enclosures:

Publication 892  
Publication 3498  
Form 6018-A  
Report of Examination  
Envelope

Form <b>886-A</b> (Rev. January 1994)	<b>REPORT OF EXAMINATION</b>		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20xx December 31, 20xx	

Issue Name: Tax Exempt Status Per Return: 990 Per Exam: December 31, 20xx & 20xx

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**Legend:**

ORG= Name of Organization President = Name of President Date = xx

**Issue:**

Whether the Organization's tax-exempt status under IRC Section 501(c)(4) should be revoked because it failed to provide necessary information to complete the examination of its Form 990 for the tax periods shown above. •

**Facts:**

The organization failed to respond to the Internal Revenue Service attempts to obtain information to perform an examination of form 990 for the tax period(s) ending December 31, 20xx. The Service requested information as follows:

- March 2, 20xx — The organization was sent an examination letter (Letter 3606) with Form 4549, *Information Document Request* (IDR), and was contacted by phone. Revenue Agent called, the president at the time, to discuss the parameters of the examination. The rights of the organization, outlined in Publication 1, were also discussed at that time. President stated that the Treasurer/Secretary, would be the primary contact person for the organization during the examination.
- March 3, 20xx — Treasurer called to discuss the ongoing examination. The IDR, which was sent with the examination letter, was discussed with Treasurer. She agreed to provide the documents and information requested of the organization. She indicated that the information would be provided by March 15, 20xx
- April 7, 20xx — The organization did not respond or provide the information and documents that were requested of it. The organization was contacted by phone. President answered the phone and indicated that Treasurer would return the phone call shortly, by latest the next day.
- April 17, 20xx — The organization did not reply to the phone message left on April 7, 20xx The IRS agent called Treasurer to discuss the status of the examination. She indicated that she had left a voice message with the agent on April 12, 20xx. No such message was received. Treasurer committed to faxing the documents and information requested by April 28, 20xx.
- May 3, 20xx — No information or documents were received from the organization. The IRS agent called the organization and left a message with the receptionist.

Form 886-A (Rev. January 1994)	REPORT OF EXAMINATION	Schedule number or exhibit  0001
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20xx December 31, 20xx

- May 11, 20xx — The organization did not reply to the message left on May 3, 20xx. The organization was called and a second message was left with the receptionist. The receptionist indicated that \_\_\_\_\_ would return the call.
- May 15, 20xx — The organization did not reply to the messages left on May 3, and May 11, 20xx. The organization was called to discuss the status of the examination. Treasurer indicated that she had not compiled any of the information, because she was attending to the needs of her sick uncle. She requested an extension of time to provide the information. She committed to faxing the information by May 19, 20xx.
- June 2, 20xx — The organization did not provide the information or documents requested of it. The organization was contacted by phone. \_\_\_\_\_ Treasurer committed to provide the documents and information by June 9, 20xx. The importance of providing the information was emphasized to \_\_\_\_\_ Treasurer.
- June 16, 20xx — The organization did not provide the information or documents requested of it. The organization was contacted by phone. When the Revenue Agent asked to speak with \_\_\_\_\_ Treasurer, the receptionist held her hand over the phone and it appeared that she was talking to \_\_\_\_\_ Treasurer. The individual told the receptionist to tell the Revenue Agent that she was not there. A message was then left with the receptionist to have \_\_\_\_\_ Treasurer call the Revenue Agent.
- June 19, 20xx — The organization did not reply to the message left on June 16, 20xx. The organization was once again contacted by phone, and a message was left with the receptionist.
- June 22, 20xx — The organization did not reply to the messages left on June 16, and June 19, 20xx. The Revenue Agent then attempted to contact \_\_\_\_\_ President to discuss with her the status of the examination and the lack of cooperation that the organization was providing. When the Revenue Agent asked the receptionist if he could speak with \_\_\_\_\_ President, \_\_\_\_\_ Treasurer answered the phone. \_\_\_\_\_ Treasurer indicated that she was put in as the new President of the organization, and that all correspondence should go through her. She also indicated that she would not provide the documents that were requested of the organization, and that she felt that the IRS had no rights to those documents.
- June 23, 20xx — A follow-up letter was sent certified mail. The organization was informed that the scope of the examination had been broadened. The organization was given until July 5, 20xx. The certified receipt was signed.
- July 5, 20xx — The organization faxed a request to extend the due date from July 5, 20xx to July 10, 20xx, to provide the information requested of it from the June 23, 20xx Information Document Request.
- July 17, 20xx — The organization failed to provide the information and documents requested of it. The organization was contacted by phone to discuss the status of the examination. \_\_\_\_\_ Treasurer indicated that she had mailed all of the information requested from the organization on July 11, 20xx.
- August 24, 20xx — The package that \_\_\_\_\_ Treasurer indicated that she mailed on July 11, 20xx was not received. The IRS agent called the organization and left a message with the receptionist.
- August 30, 20xx — The organization failed to respond to the message left on August 24, 20xx. The IRS agent called the organization and left a second message with the receptionist.
- October 3, 20xx — The organization failed to respond to the message left on August 24, and August 30, 20xx. The IRS agent called the organization and left a third message with the \_\_\_\_\_

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receptionist.

- October 11, 20xx – The organization failed to respond to the message left on August 24, August 30, and October 3, 20xx. The organization was contacted by phone. The Revenue Agent asked to speak with an officer of the organization other than Treasurer. The organization's current Treasurer, indicated that Treasurer is the only individual authorized to discuss tax matters.
- November 21, 20xx – The organization has failed to provide any of the documents that were requested of it during the examination. The IRS agent called the organization and left a message with the receptionist.
- January 30, 20xx — The organization was issued a draft report of examination, proposing a revocation of their exempt status due to lack of response. The report was sent certified mail. The certified mail was signed for on February 3, 20xx. The organization failed to respond to the draft report of examination, and has not provided any of the documents that were requested of it during the examination.

#### Law:

**Section 6033(a)(1)** of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

**Section 6001** of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

**Section 1.6001-1(e)** of the regulations states that the books or records required by this section shall be kept at all time available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

**Section 1.6033-1(h)(2)** of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

**Rev. Rul. 59-95, 1959-1 C.B. 627**, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section

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6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

**Government's Position:**

In accordance with the above-cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to:

- 1) The filing of a complete and accurate annual information (and other required federal tax forms);
- 2) The retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax; and
- 3) The availability of these records for inspection by authorized internal revenue officers or employees.

The organization failed item #3, to make available the records for inspection by authorized internal revenue officers or employees, by refusing to provide the necessary information as requested, and refusing to respond to the efforts of the Service to obtain necessary information. Therefore, item #1 and #2 are also failed in that they could not be determined to have been met.

It is the IRS's position that the organization's exempt status should be revoked based on, according to Revenue Ruling 59-95, 1959-1 C.B. 627 (as stated above), "the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status".

**Taxpayer's position:**

The organization was issued a draft report of examination, proposing a revocation of their exempt status due to lack of response. The organization failed to respond to the draft report and has not provided its position.

**Conclusion:**

The Government concludes that the organization does not qualify for exemption from Federal income tax under IRC § 501(c)(4). As a result of this finding, the organization will be subject to the income tax imposed by IRC § 11 and is required to file Forms 1120 for all tax periods ending after January 1, 20xx.